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HOUSE BILL 3194 By  
West

SENATE BILL 3256  
By Graves

AN ACT to amend Tennessee Code Annotated, Title 3; Title 8; Title 33; Title 56; Title 68 and Title 71, relative to alcohol and drug abuse services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 3, Chapter 15, is amended by adding the following as a new part to be appropriately designated:

3-15-\_\_\_1.

(a) In order to improve and promote accessible and appropriate alcohol and drug abuse services, there is hereby created the select oversight committee on alcohol and drug abuse services, hereinafter referred to as "the committee."

(b) The committee shall be composed of ten (10) members, with five (5) members to be appointed by the speaker of the senate and five (5) members to be appointed by the speaker of the house of representatives.

3-15-\_\_\_2.

(a) The committee shall elect from its membership a chair, a vice chair and such other officers as it considers necessary.

(b) The committee may also:

(1) Create subcommittees related to its purposes;

(2) Create an advisory panel composed of representatives including, but not limited to, providers, government officials and consumers;

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(3) Request that standing committees of the general assembly, the fiscal review committee or other agencies study certain aspects of alcohol and drug abuse services programs and report to the committee;

(4) Conduct hearings;

(5) Employ staff, subject to the availability of funds;

(6) Enter into contracts for technical or professional services, subject to the availability of funds; the speaker of the senate and the speaker of the house shall jointly determine the qualifications and task or job descriptions of any consultant or other person contracted for services, and shall jointly select any such consultant or other person on behalf of the committee; and

(7) Perform such other duties as are required.

3-15-\_\_\_3.

(a) The committee shall meet at least quarterly and at the call of the chair. The first meeting of the committee shall be convened by the speaker of the senate.

(b) Members of the committee are entitled to be reimbursed for their expenses in attending meetings of the committee or any subcommittees thereof at the same rates and in the same manner as when attending the general assembly.

3-15-\_\_\_4.

The committee shall report on its activities to each member of the general assembly.

3-15-\_\_\_5.

(a) It is the intent of this part that plans be made carefully and be reviewed thoroughly to help ensure that the programs involving alcohol and drug abuse services achieve their intended purposes, to help ensure that access and quality of care are maintained for consumers and to help ensure that the general assembly and the public

can have confidence that the state will deliver alcohol and drug abuse services which are effective and efficient.

(b) To these ends, the committee shall review proposed expenditures for alcohol and drug abuse services and shall make its comments on proposed expenditures in a timely fashion according to this section.

(c) With respect to alcohol and drug abuse services, any proposed expenditure of funds, including TennCare Partners funds to behavioral health organizations (BHOs) or the distribution of supplemental pool funds to providers, any administrative or management changes requiring additional expenditures, and any proposed expenditure for expanding or otherwise changing the TennCare Partners program, shall be filed in writing by the commissioner of health with the committee and may be reviewed by the committee. After any such review, the committee may comment to the commissioner of finance and administration on the proposed expenditures; provided, that any such comment shall be made within thirty (30) days after receipt by the committee of the proposal for such expenditures. If such expenditures are made before the committee has made its comments, if any, or if expenditures are made which are inconsistent with the comments of the committee, the commissioner of finance and administration shall explain in writing the reasons for making such expenditures to the committee and each other member of the general assembly.

3-15-\_\_6.

The committee shall receive information and assistance from the department of health and other agencies of state government, as necessary.

3-15-\_\_7\_\_.

With respect to alcohol and drug abuse services, the committee shall review regularly the following programs, functions and activities of the department of health:

(1) Provisions of services, facilities or programs by public and private providers, or other related matters;

(2) Education programs for TennCare Partners enrollees, BHOs and providers, including eligibility, access to providers and BHOs, benefit package offered, or other related matters;

(3) Review and evaluation of performance of TennCare BHOs, including their compliance with contracts entered into with the state, review of BHO contracts entered into with any TennCare provider or other related matters;

(4) Compliance by the department with provisions of the TennCare federal waiver, including review of proposed amendments to the waiver for system changes, and evaluations or reports prepared for or by the federal government, or other related matters;

(6) Staffing within the department, including recruitment, selection, training, compensation, discipline or other matters;

(7) Management, including planning, budgeting, information systems, organizational structure, rules and regulations, department policies and procedures or other related matters; and

(8) Any other matters considered material.

3-15-\_\_8\_\_.

(a) When any bill is introduced in the general assembly that will impact or potentially impact upon any area within the scope of review of the committee, as set out in this chapter, the clerk shall at the same time such bill is referred to the appropriate standing committee, notify the chair of the oversight committee of such bill and transmit a copy of such bill to the oversight committee. For purposes of participating in the discussions and comments of the oversight committee, the oversight committee chair shall notify the chair or the chair's designee of the standing committee of the date, time

and location where the oversight committee will meet to review legislation which has been assigned to the standing committee, and such chair or the chair's designee shall become an ex officio member of the oversight committee when the oversight committee considers such legislation.

(b) In order to efficiently execute the duties set out in this part, the committee shall review all bills transmitted to it as provided in subsection (a) and may attach committee comments to such bill prior to its consideration by the appropriate standing committee. The sole purpose of review by the committee is to assist the standing committee in its consideration of relevant legislation by providing appropriate background information on the bill or information concerning the impact of the bill on the department's programs. The committee shall make no recommendation concerning the passage of a bill it reviews nor shall it have the authority to prevent the consideration of the bill by the standing committee to which it is referred. The committee's review of all bills transmitted to it pursuant to subsection (a) shall be completed and the notification required in subsection (c) returned to the chair of the appropriate standing committee no later than four (4) weeks after a bill covered by the provisions of this section has first been introduced.

(c) Upon completion of the review process within the time limitation established in subsection (b), the chair of the oversight committee shall send written notification to the chair of the appropriate standing committee indicating that the review process has occurred and that the bill is ready for consideration by the standing committee. If the oversight committee has prepared committee comments on a bill, such comments shall be attached to the notification to the chair. If the committee has reviewed a bill but has no committee comments, that shall be indicated in the notification to the chair. If a bill is referred to the committee for review but has not been reviewed within the time period set

out in subsection (b), the chair shall notify the appropriate chair that the bill has not been reviewed but is ready for consideration by the standing committee.

3-15-\_\_\_9.

The committee created by this part will terminate at the adjournment of the regular session of the general assembly convened in 2000. The general assembly may continue the committee for two (2) years by appropriate action during such regular session.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 6, Part 7, is amended by adding the following as a new section to be appropriately designated:

Section \_\_\_\_\_. Managed care organizations, health maintenance organizations, preferred provider organizations and behavioral health organizations shall in all instances involving a determination of the type, level, length and course of treatment that is available for any subscriber suffering from alcohol and other drug abuse or chemical dependency make such determinations in accordance with the most recent addition of the American Society of Addiction Medicine Patient Placement Criteria (ASAM Criteria) and a standard of medical necessity which includes the biopsychosocial component included in the ASAM criteria.

SECTION 3. Tennessee Code Annotated, Title 56, Chapter 32, Part 2, is amended by adding the following as a new section to be appropriately designated:

Section \_\_\_\_\_. Managed care organizations, health maintenance organizations, preferred provider organizations and behavioral health organizations shall in all instances involving a determination of the type, level, length and course of treatment that is available for any subscriber suffering from alcohol and other drug abuse or chemical dependency make such determinations in accordance with the most recent addition of the American Society of Addiction Medicine Patient Placement Criteria (ASAM Criteria) and a standard of medical necessity which includes the biopsychosocial component

included in the ASAM criteria. This section also applies to entities participating in the TennCare program under Title 71, Chapter 5, Part 1.

SECTION 4. Tennessee Code Annotated, Title 56, Chapter 32, Part 2, is amended by adding the following as a new section to be appropriately designated:

Section \_\_\_\_\_. (a) With respect to appeals or grievances concerning the approval or denial of alcohol and drug abuse services involving an entity regulated under this chapter, such grievances or appeals shall be governed by the provisions of this section instead of Section 56-32-210 or Section 56-6-705, of this title.

(b) Any managed care organization or other entity regulated under this chapter shall meet the following minimum standards concerning the authorization for and the appeal of decisions involving alcohol and drug abuse services:

(1) Notification of a determination by the managed care organization or other entity regulated under this chapter shall be mailed or otherwise communicated to the provider of record or the enrollee or other appropriate individual within one (1) business day of the receipt of the request for determination and the receipt of all information necessary to complete the review;

(2) Any determination by a managed care organization or other entity regulated under this chapter as to the necessity or appropriateness of an admission, service, or procedure shall be reviewed by a physician or determined in accordance with standards or guidelines approved by a physician;

(3) Any notification of determination not to certify an admission or service or procedure must include the principal reason for the determination and the procedures to initiate an appeal of the determination;

(4) A managed care organization or other entity regulated under this chapter shall maintain and make available a written description of the appeal procedure by which the enrollee or the provider of record may seek review of a

determination by the managed care organization or other entity regulated under this chapter. The appeal procedure shall provide for the following:

(A) On appeal, all determinations not to certify an admission, service, or procedure as being necessary or appropriate shall be made by an alcohol or drug abuse professional, who is independent of any financial interest in any affected party, as mutually deemed appropriate;

(B) A managed care organization or other entity regulated under this chapter shall complete the adjudication of appeals of determinations not to certify admissions, services, and procedures no later than thirty (30) days from the date the appeal is filed and the receipt of all information necessary to complete the appeal; and

(C) When an initial determination not to certify a substance abuse care service is made prior to or during an ongoing service requiring review, and the attending physician or alcohol and drug abuse professional believes that the determination warrants immediate appeal, the attending physician or professional shall have an opportunity to appeal that determination over the telephone on an expedited basis. A representative of a hospital or other health care provider or a representative of the enrollee or covered patient may assist in an appeal. A managed care organization or other entity regulated under this chapter shall complete the adjudication on an expedited basis. A managed care organization or other entity regulated under this chapter shall complete the adjudication of expedited appeals within twenty-four (24) hours of the date the appeal is filed and the receipt of all information necessary to complete the appeal. Expedited appeals that do not resolve a difference of opinion may be resubmitted through the standard appeal process;



(5) A managed care organization or other entity regulated under this chapter shall make staff available by toll-free telephone at least forty (40) hours per week during normal business hours;

(6) A managed care organization or other entity regulated under this chapter shall have a telephone system capable of accepting or recording incoming telephone calls during other than normal business hours and shall respond to these calls within two (2) working days;

(7) A managed care organization or other entity regulated under this chapter shall comply with all applicable laws to protect the confidentiality of individual medical records;

(8) A managed care organization or other entity regulated under this chapter shall allow a minimum of twenty-four (24) hours after an emergency admission, service, or procedure for an enrollee or the enrollee's representative to notify the utilization review agent and request certification or continuing treatment for that condition.

(c) Nothing in this section shall be construed to exempt any utilization review agent from the standards established in Section 56-6-704.

SECTION 5. Tennessee Code Annotated, Title 33, Chapter 8, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section \_\_\_\_\_. The department of health shall use all federal block grant funds which it receives for alcohol and drug abuse prevention and treatment services, apart from those federal funds received pursuant to Title XIX of the Social Security Act or the TennCare waiver, to develop and sustain a system of essential community providers of alcohol and drug abuse treatment services for persons apart from the TennCare or medical assistance programs. Such block grant funds shall be disbursed only by contracts and grants with such providers of alcohol and drug abuse services. Such

block grant funds may not be disbursed on the basis of a fee for service method of reimbursement or may not be disbursed to any provider or managed care organization that is not an essential community provider of alcohol and drug abuse treatment services. Such funds shall support a full continuum of wrap around alcohol and drug abuse services for TennCare recipients and all needed treatment services for alcohol and drug abuse clients not otherwise covered by a source of reimbursement. The commissioner of health shall set by rule the criteria for determining which providers are essential community providers of alcohol and drug abuse treatment services.

SECTION 6. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section \_\_\_. For persons receiving medical assistance or enrolled in the TennCare program who require referral to a provider of alcohol and drug abuse treatment services, licensed under Title 33, the licensed provider of such services shall be reimbursed on the basis of a case rate schedule established by the commissioner of health by rule. The commissioner of health in consultation with the commissioner of commerce and insurance shall establish a reasonable compensation schedule designed with reference to specific substance abuse diagnosis-related groups.

SECTION 7. Tennessee Code Annotated, Title 33, Chapter 8, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section \_\_\_. For persons who require referral to a provider of alcohol and drug abuse treatment services, licensed under Title 33, who is an essential community provider of alcohol and drug abuse treatment services under Section 5 of this act, the licensed provider of such services shall be reimbursed on the basis of a case rate schedule established by the commissioner of health by rule. The commissioner of health in consultation with the commissioner of commerce and insurance shall establish

a reasonable compensation schedule designed with reference to specific substance abuse diagnosis-related groups.

SECTION 8. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section \_\_\_\_\_. At the request of a provider of alcohol and drug abuse treatment services participating in the TennCare program, the commissioner of commerce and insurance shall forward any claims for reimbursement against a behavioral health organization or a managed care organization, that are unpaid for more than one hundred twenty (120) days after submission by the provider, to the attorney general and reporter for mediation or any appropriate enforcement activity. If the attorney general and reporter has not resolved the matter or initiated a suit in court of appropriate jurisdiction to enforce compliance with the terms of relevant contracts and subcontracts within sixty (60) days, then the provider may institute suit to recover any reimbursement to which it is due in any court with competent jurisdiction and the court may award the prevailing party all reasonable attorney fees and costs of enforcement.

SECTION 9. The commissioner of health is authorized to promulgate rules and regulations to effectuate the purposes of Sections 5, 6, and 7 of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 10. The commissioner of commerce and insurance is authorized to promulgate rules and regulations to effectuate the purposes of Sections 2, 3, 4 and 8 of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall take effect July 1, 1998, the public welfare requiring it. This act shall apply to contracts entered into or renewed on or after July 1, 1998.